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REISSUE APPLICATION DECLARATION BY THE INVENTOR

Docket Number (Optional)
10557/247605

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is described and claimed in patent number 5,931,870, granted August 3, 1999, and for which a reissue patent is sought on the invention entitled Acetabular Ring Prosthesis with Reinforcement Buttress,

the specification of which

☐ is attached hereto.

☒ was filed on August 1, 2001 as reissue application number 09 / 920,432
and was amended on August 1, 2001.
(If applicable)

I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.

I verily believe the original patent to be wholly or partly inoperative or invalid, for the reasons described below. (Check all boxes that apply.)

☐ by reason of a defective specification or drawing.

☒ by reason of the patentee claiming more or less than he had the right to claim in the patent.

☐ by reason of other errors.

At least one error upon which reissue is based is described as follows:

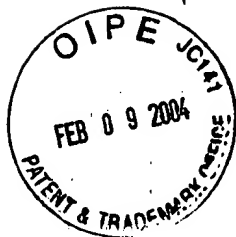
The patent is defective because its claims are too narrow. At least Claim 35 recites elements that are not necessary for patentability over the art of record. Claim 35 recites an acetabular cup prosthesis that includes a buttress for cement containing or securing. However, a buttress is not required for Claim 35 to be patentable over the art of record. Nor does the specification limit the function of cement containing or securing to a buttress.

The cement containing or securing portion could be any type of structure, member or surface that reinforces or contains cement in the cup or that maintains the liner in position. The specification discloses the purpose of the buttress as helping to "secure a mass of cement in between the cup body and the polymeric liner" and discloses that it "can be used to contain bone cement in a mass to aid in holding the polyethylene ("all poly") liner in position." See col. 2, lines 63-65; col. 5, lines 1-5 respectively.

The invention in at least some aspects relates to an acetabular cup that includes, among other things, a superior flange, a posterior flange, and an inferior flange, each of which includes at least two bone screw retention openings, and a distally extending concave surface of the cup that extends to a greater extent adjacent the superior and posterior flanges than at other positions around a rim of the cup. The distally extending surface is shaped in this manner to act in combination with the flanges to accomplish the cement containing function. It is not necessary that the distally extending surface be limited to having a buttress that accomplishes this function.

These defects in the claims arose during prosecution of the application that resulted in the original patent because of the applicants' and the attorneys' failure to appreciate the full scope of the invention. More specifically, it was not appreciated that an acetabular prosthesis incorporating the above mentioned distally extending surface and superior, posterior and inferior flanges would be patentable.

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(REISSUE APPLICATION DECLARATION BY THE INVENTOR, page 2) Docket Number (Optional)
10557/247605

All errors corrected in this reissue application arose without any deceptive intention on the part of the applicant. As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

Name(s) _____ Registration Number _____

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OR
Type Customer Number here

☐ Firm or individual name _____

Address _____

Address _____

City _____ State _____ ZIP _____

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Telephone _____ Fax _____

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.

Full name of sole or first inventor (given name, family name)
John M. Cuckder

Inventor's signature _____

Residence _____ Date _____

Mailing Address _____ Citizenship U.S.

Full name of second joint inventor (given name, family name)
Joseph Schatzker

Inventor's signature *x [Signature]* Date *x Feb 5 2004*

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OR Additional joint inventors are named on separately numbered sheets attached hereto.

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Full name of sole or first inventor (given name, family name)

John M. Cuckler

Inventor's signature

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Full name of second joint inventor (given name, family name)

Joseph Schatzker

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Allan E. Gross

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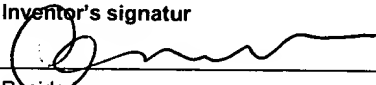
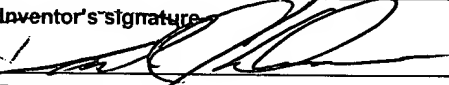
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☒ Additional joint inventors are named on separately numbered sheets attached hereto.

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J. Clinton Wimbish	54,545
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